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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re K.F., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

K.F.,

Defendant and Appellant.

G042354

(Super. Ct. No. DL020153)

OPINION

Appeal from a judgment of the Superior Court of Orange County, Kimberly Menninger, Judge. Affirmed.

James M. Crawford, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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The juvenile court declared minor K.F. (born October 1991) a ward of the court in April 2005 after she admitted committing aggravated assault and misdemeanor assault and battery. (Welf. & Inst. Code, § 602.) After various dispositions failed, in July 2009, the court authorized the minor's placement in a residential treatment facility in Texas. She appeals from that order.

We appointed counsel to represent the minor on appeal. Counsel filed a brief setting forth a statement of the case. Counsel did not argue against his client, but advised this court he found no issues to support an appeal. We provided defendant 30 days to file her own written argument. That period has passed, and we have received no communication from her. Consequently, we conducted a review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

According to the January 2005 detention report, the minor got into a verbal argument at home with her brother and grandmother. The grandmother told minor she could not have coffee because it was time for bed. The minor became enraged and yelled profanities at the grandmother, who stood only inches away. The minor's brother intervened and the grandmother told her to stop cursing at the brother. When the grandmother smashed minor's radio in anger, the minor kicked her grandmother in the thigh and threw a plate at her brother, hitting him in the head.

In April 2005, the minor admitted committing aggravated assault (Pen. Code, § 245, subd. (a)), and misdemeanor assault and battery. The court declared her a ward of the court and set a maximum term of confinement of four years and two months. The court placed the minor on home probation with orders to obey a curfew and complete 120 hours of community service.

In December 2006, the probation officer filed a probation violation notice alleging the minor had violated curfew, failed to attend school and obey school regulations, and absconded from her wardship. The minor admitted the violations and was ordered released on condition she complete 20 days in a community work program and submit to drug and alcohol testing.

In April 2007, a second probation violation notice was filed alleging minor had violated curfew, failed to attend school and obey school regulations, and that she had been suspended from the work program after seven days. She admitted the violations and the juvenile court ordered her to serve 60 days in a juvenile facility.

In January 2008, a third probation violation notice alleged minor had violated curfew, failed to attend school and obey school regulations, and had failed to maintain peaceful contact with her mother and grandmother. She admitted the violations and was committed to juvenile hall for 120 days.

In June 2008, the probation officer filed a fourth probation violation notice alleging minor spent a night away from home without her mother's permission, violated the curfew order, and failed to attend counseling. A fifth notice alleged minor had assaulted her mother and was being abusive to her. Minor denied the allegations.

In late June 2008, interested parties including school officials, minor's therapist, a representative from the county mental health department, minor's mother, and the probation officer, met to discuss minor's Individual Education Plan (IEP). The parties addressed minor's history of emotional problems and mental illness, including bipolar disorder, her poor performance in school, and her verbal defiance. The parties decided a residential treatment facility was in the minor's best interests.¹ Because the

¹ In early July, the court appointed an educational attorney for the minor in addition to her court appointed juvenile attorney.

minor had been doing well academically and behaviorally while in custody, the group concluded she should “be in a well structured therapeutic environment in order to maintain her safety and to improve her level of functioning. [She] requires a behavior management system, psychotherapeutic services, and medication services provided by [an] out-of-home residential placement in order [] to progress academically, emotionally, and behaviorally.”” The probation officer noted the county health care agency (HCA) would “look into residential programs in California first, before researching out of state programs.” In mid-July, HCA reported that Family Life Center, a program in Northern California, agreed to treat the minor, who agreed to the placement. The program stated it hoped “to continue a relationship with probation and utilize probation services for disciplinary reasons, (such as removal of the minor,) if necessary. It would therefore appear that a Placement Order is necessary to accommodate the program.”

In early August, the court executed a “Consent Order” authorizing placement of the minor in the identified “education residential placement.” The court’s order vested minor’s care and custody with the minor’s mother upon release from juvenile hall, and relieved probation from supervising the minor upon entry into the program. The minor remained on probation, and the juvenile court restricted the parents from removing the minor from the program without the court’s consent.² The court ordered the minor to report to probation within 72 hours of leaving the program for any reason.

² The school district where mother resided agreed to pay for the educational portion of the placement as long as mother resided within the district. The district also agreed to fund travel-related expenses for K.F. or her parents for up to four visits per year. The county’s mental health agency agreed to fund the room and board and mental health service expenses related to placement.

By February 2009, minor reverted to her earlier misbehavior. She “continued to struggle with taking responsibility for her actions, while being manipulative and dishonest” On April 25, 2009, she absconded from the program. In early May, the probation officer requested a blanket order for the minor’s placement at any program or facility deemed appropriate by her IEP team. The probation officer also recommended terminating the wardship on the minor’s 18th birthday in October 2009, because she had “completed all Court-ordered sanctions and paid in full all financial obligations,” and noted the minor “may well derive greater benefit from the opportunity to work with treatment professionals absent involvement of law enforcement officials, whom she distrusts to an irrational level.”

On May 4, the juvenile court reinstated the minor on supervised probation. The following day, the probation officer filed another probation violation notice based on minor’s absconding from her latest placement. The minor was arrested on June 15. She explained she fled the program when she grew depressed over a “mistake” she made that would preclude her from completing her treatment. She lived at various homeless shelters in San Francisco, and engaged in prostitution.

On June 23, 2009, minor’s educational attorney was directed to explore alternative placements. On July 15, 2009, the juvenile court requested the juvenile hall’s Clinical Evaluation and Guidance Unit (CEGU) therapist assess whether minor was suffering from any particular mental disability, what treatment she was receiving, and any progress she was making before the court sent “her to another state for continued educational opportunities.” The court also requested an update on minor’s credits, current grades, and behavior.

The therapist and a psychiatrist reported the minor's working diagnosis was impulse control disorder and posttraumatic stress disorder, which was being treated with cognitive behavioral therapy. Minor was doing well in the juvenile hall, although she tended to have increased anxiety after visits with her mother. She did not take any medication. The probation officer reported she was receiving all "A's" in classes at the juvenile hall school with two incidents of disruptive behavior.

On July 20, the court signed another consent order authorizing implementation of the minor's July 2009 IEP, which called for assigning the minor into an "AB 3632 residential placement." The court's order acknowledged placement was to be out-of-state at the Devereux residential treatment facility in League City, Texas.³ The court's order vested minor's care and custody with minor's mother upon release from juvenile hall, and relieved probation from supervising minor upon entry into the placement. The parents were restricted from removing minor from the placement without prior consent of the court.

At the hearing, the court expressed reservations about placing minor in Texas because she might abscond again, and also that once minor turned 18 in three months "she's going to do what she's going to do at that point" because at age "18 there is no place legally that can keep her" and "she can just walk out." The court noted that if minor stayed in the area, she would not run away or harm herself, and after she became an adult, the court might be able to offer her "wrap around" or continuing services until age 25. Minor's mother stated she wanted her daughter "to go to Texas." Minor's juvenile court attorney objected to the out-of-state placement because she was concerned

³ A memo apparently prepared by minor's school district's special education staff stated the minor required a more restrictive placement and a California placement was not an option "due to her history of elopement." It stated county mental health officials found the Texas facility appropriate.

about the minor's safety, assuming she "check[ed] herself out" when she turned 18. The court dismissed the outstanding probation violation petitions on the district attorney's motion. The court directed the minor to report to her probation officer when she returned from Texas to receive "the wrap around services," and noted she would be on formal probation "as soon as she comes back."

DISCUSSION

Counsel identifies no potential issues for our review. We have considered whether the minor's out-of-state placement followed the requirements of Welfare and Institutions Code section 727.1 and presents an arguable issue. That section provides in relevant part: "(b) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that all of the following conditions are met: [¶] (1) In-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor. [¶] (2) The State Department of Social Services or its designee has performed initial and continuing inspection of the out-of-state residential facility or program and has either certified that the facility or program meets all licensure standards required of group homes operated in California or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety, pursuant to subdivision (c) of Section 7911.1 of the Family Code. [¶] (3) The requirements of Section 7911.1 of the Family Code are met."

While the record suggests the court "ordered" the minor to be placed at an out-of-state private residential facility, we believe the court merely authorized an

educational placement by minor's mother, who held minor's educational rights, in consultation with minor's IEP team. The record supports the court's implied conclusion that in-state facilities were unavailable or inadequate, and we assume the Department of Social Services complied with its statutory duty in authorizing the minor's placement. (See Gov. Code, § 7572.55; see generally Gov. Code, §§ 7570-7588; Cal. Code Regs., tit. 17, §§ 60000-60610.) Thus, the court's failure to make the express findings listed in Welfare and Institutions Code section 727.1 does not present an arguable issue in this appeal.

We discern no other arguable issues minor could present on appeal. Accordingly, the judgment is affirmed.

ARONSON, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

IKOLA, J.